REMARKS

In the October 12, 2010 Office Action, claims 1-12 and 29 stand rejected under 35 U.S.C. 103(a) as unpatentable over Rusk (U.S. Patent No. 5,681,280). Claim 30 stands rejected under 35 U.S.C. 103(a) as unpatentable over Rusk in view of Tu (U.S. Patent No. 6,319,251). The following remarks address each of these issues and places the present application in condition for allowance.

Claims 1-12 and 29 Are Patentable Over Rusk

Claims 1 and 29 relate to a spreader structure and method of using a spreader structure and recite "wherein said spreader rods contain a non-linear segment having substantially alternating curved sections at its inner and outer surface." The Examiner states that Rusk "fails to expressly teach having a substantially alternating curved section at its outer surface when in a collapsed state." (Office Action, pg. 3)

The Examiner states that "paragraph 0017 of the instant application teaches that in order for the spreader rod to have reduced flexural stiffness the shape of the structure could be either a meander-shaped structure or can be flat or, as in the present case, it can preferably be the surface shell of a circular cylinder." The Examiner misstates paragraph 0017. Paragraph 0017 states "a *meander-shaped structure* is particularly suited for the area with reduced flexural stiffness. A *meander-shaped structure* is characterized by alternating bent and straight sections that extend on one surface. The *surface can be flat* or, as in the present case, it can preferably be the surface shell of a circular cylinder." (emphasis added) Paragraph 0017 clearly states that *the structure is meander-shaped* while the surface can be flat. It does not state that the structure can be flat.

Paragraph 0045 then further states that "the third section 22 is meander-shaped such that, compared to the adjacent second and fourth sections 20 and 24, it has reduced flexural stiffness.

The meander-shape is formed by short curves and short straight lines between them, the cross sections of these straight lines being substantially square." (emphasis added) This clearly states that the third section 22 is meander-shaped for *reduced flexural stiffness*.

The meander-shape is formed by short curves and short straight lines between them. It is this alignment, as clearly shown in the figures, that shows the spreader rods contain a non-linear segment having substantially alternating curved sections at its inner and outer surface when in a collapsed state. Thus, the instant specification clearly states the criticality (reduced flexural stiffness) of having the spreader rods contain a non-linear segment having substantially alternating curved sections at its inner and outer surface when in a collapsed state.

The Examiner then states that in Col. 8, line 65 through Col.9, line 4; shown in Figures 2-4 and 9 that "Rusk teaches that the spreader rods contain a non-linear segment having substantially alternating curved section at its inner surface in a collapsed state, and similarly teaches having this configuration in order to provide reduced flexural stiffness wherein the surrounding sections are substantially straight and relatively sturdy." (Office Action, pg. 4, emphasis added). This is incorrect. Rusk is *silent* on providing reduced flexural stiffness. Rusk *never* states that its invention has its configuration in order to provide reduced flexural stiffness and does not speak of reduced flexural stiffness in any instance.

The September, 2010 KSR guidelines state in *Rolls-Royce, PLC v. United Technologies Corp.,* 603 F.3d 1325 (Fed. Cir. 2010) that since there had been no suggestion in the prior art that would have suggested that changing the sweep angle(changing the shape of the outside of the structure), as Rolls-Royce(Applicant) had done, would have addressed the issue of endwall shock(reduced flexural stiffness) then changing the sweep angle(changing the shape of the outside of the structure) "*would not have presented itself as an option at all, let alone an option*

that would have been obvious to try." (Federal Register, Vol. 75, No. 169, pg. 53656, Col. 2)(quoting *Rolls-Royce*, 603 F.3d at 1339. Emphasis added.) Therefore, Rusk's silence on the effect the shape of the outside of the structure has on reduced flexural stiffness means that changing the shape of the outside of the structure would not have presented itself as an option at all, let alone an option that would have been obvious to try.

For at least these reasons, Applicant respectfully requests that the rejection of claims 1 and 29, and all claims depending therefrom, be withdrawn.

All Claims Are Patentable Over Tu

As stated above, claim 29 is patentable. Because claim 30 depends from claim 29, claim 30 is therefore patentable over Tu in view of Rusk.

CONCLUSION

In light of the foregoing, Applicant submits that the application is now in condition for allowance. If the Examiner has any questions pertaining to the above, then the undersigned attorney would welcome a phone call to provide any further clarification.

Respectfully submitted,

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